

### **REMARKS**

The present paper is in response to the non-Final Office Action dated December 15, 2006. Claims 1-8 and 10-25 of which claims 1, 6, 13, 18, and 23 are independent claims, were originally pending in the application. The Applicant amends claims 1, 6, 13, 15, 18, 23 and 25. Claims 5 and 9 are cancelled. The amended claims introduce no new matter and are fully supported by the specification. The Applicant respectfully submits that the pending claims 1-4, 6-8 and 10-25 are in condition for allowance in view of the amendments and following supporting remarks.

#### **A. Rejection under 35 U.S.C. § 102(b)**

The Examiner rejects claims 6-8, 10-16, 18, 20 and 22 as being anticipated by Bruckert et al. (United States Patent No. 6,018,651). In light of the amendments and arguments contained herein, the Applicant respectfully requests that this rejection be withdrawn.

In contrast with claim 6, as amended herein, Bruckert et al. fails to teach or suggest "determining a time duration that the error rate exceeds the threshold...generating a control signal when the error rate exceeds the threshold for a set period of time, wherein the control signal determines whether the signal provided to a receiver is received over the first antenna or the second antenna" (See Applicant's Claim 6 and specification support in page 15, lines 1-15). Specifically, Bruckert et al. is completely silent as to the determination of how long (i.e., time duration) the error rate exceeds a threshold for and the generation of a control signal (to switch from a first antenna to a second antenna) **ONLY WHEN** the error rate exceeds the threshold for a set time period. That is, the control signal is generated only when the signal error rate remains in an undesirable range (i.e., exceeds threshold) for a time equal to or greater than a set time period.

For at least the above reasons, the Applicant respectfully requests that this rejection be withdrawn for claim 6. Claims 7, 8, and 10-12 depend directly or indirectly from claim 6. Accordingly, the Applicant respectfully requests that this rejection be withdrawn for claims 7, 8, and 10-12 for at least the same reasons discussed with respect to 6.

Moreover, the section cited by the Examiner (See Bruckert et al., column 15, lines 6-19) as teaching or suggesting claim 10 in fact teaches the opposite. In particular, Bruckert et al. discloses “**SIMULTANEOUS** switching between a first and a second selected antenna states” **NOT** switching by **SLOWLY** decreasing amplification of a first amplifier coupled to a first antenna while **SLOWLY** increasing amplification of a second amplifier coupled to a second antenna as taught in claim 10.

In contrast with claim 13, as amended herein, Bruckert et al. fails to teach or suggest “determining a time duration that the error rate exceeds the threshold value...and generating one or more control signals to control the amplifying if the comparing reveals that the error rate is greater than the threshold value for a set period of time” for at least the same reasons as those discussed above for claim 6.

For at least the above reasons, the Applicant respectfully requests that the rejection be withdrawn for claim 13. Claims 14-17 depend directly or indirectly from claim 13. Accordingly, the Applicant respectfully requests that this rejection be withdrawn for claims 14-17 for at least the same reasons discussed with respect to claims 6.

In contrast with claim 18, as amended herein, Bruckert et al. fails to teach or suggest “a processor configured to receive a signal from the node and present control signals to the first amplifier and the second amplifier, wherein said control signals selectively and slowly enables or disables the first amplifier and the second amplifier” (See Applicant’s Claims). Specifically, Bruckert et al. teaches that once a control signal is received to switch from a first input (i.e., a first antenna) to a second input (i.e. a second antenna), the switch is “near simultaneous” (See Bruckert et al., column 15, lines 18-19) and **NOT** a **SLOW** and gradual switch as recited in claim 18.

For at least the above reasons, the Applicant respectfully requests that the rejection be withdrawn for claim 18. Claims 19-22 depend directly or indirectly from independent claim 18. Accordingly, the Applicant respectfully requests that this rejection be withdrawn for claims 19-22 for at least the same reasons discussed with respect to claim 18.

**B. Claim Rejections under 35 U.S.C. § 103(a)**

The Examiner rejects claims 1-5, 17, 21, and 23-25 as being unpatentable over Bruckert et al. in view of Irvin (United States Patent No. 6,021,317). In light of the amendments and arguments contained herein, the Applicant respectfully requests that this rejection be withdrawn.

In contrast with claim 1 as amended herein, Bruckert et al. fails to teach or suggest "a processor configured to determine an error rate associated with the signal and generate one or more control signals when the error rate exceeds a threshold for a set period of time" for the same reasons discussed with respect to claims 6 and 13. Irvin fails to cure the deficiencies of Bruckert et al. as Irvin is also completely silent to a processor configured to generate a control signal **ONLY** when the error rate exceeds a threshold for a set period of time.

For at least the above reasons, the Applicant respectfully requests that the rejection be withdrawn for claim 1. Claims 2-4 depend directly or indirectly from independent claim 1. Accordingly, the Applicant respectfully requests that this rejection be withdrawn for claims 2-4 for at least the same reasons discussed with respect to claim 1.

In contrast with claim 23 as amended herein, Bruckert et al. fails to teach or suggest "means for processing configured to analyze the first signal and the second signal and, responsive to the analyzing, generate a control signal when an error rate associated with the first signal or the second signal exceeds a threshold value for a set period of time" for the same reasons discussed with respect to claims 1, 6, and 13. Irvin fails to cure the deficiencies of Bruckert et al. as Irvin is also completely silent to a means for the generation of a control signal when the error rates of either the first signal or the second signal exceeds a threshold for a set period of time.

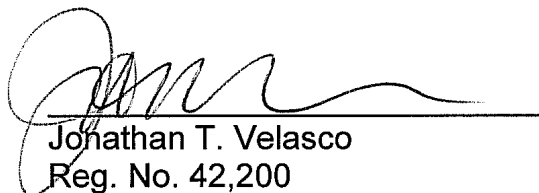
For at least the above reasons, the Applicant respectfully requests that the rejection be withdrawn for claim 23. Claims 24 and 25 depend directly or indirectly from independent claim 23. Accordingly, the Applicant respectfully requests that this rejection be withdrawn for claims 24 and 25 for at least the same reasons discussed with respect to claim 23.

**C. Conclusion**

For all the foregoing reasons, an early allowance of claims 1-4, 6-8 and 10-25 pending in the present application is respectfully requested. If necessary, applicant requests, under the provisions of 37 CFR 1.136(a) to extend the period for filing a reply in the above-identified application and to charge the fees for a large entity under 37 CFR 1.17(a). The Director is authorized to charge any additional fee(s) or any underpayment of fee(s) or credit any overpayment(s) to Deposit Account No. 50-3001 of Kyocera Wireless Corp.

Respectfully Submitted,

Dated: March 13, 2007



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